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For January 5, 2006 Cadott hearing?**

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

**2005-06**

(session year)

**Senate Select**

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**Committee on ... DNR (SSC-DNRRR)**

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  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
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New Ord 2-9-2000

February 2000

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# RUSK COUNTY

## SHORELAND

## ORDINANCES



*Wis status on Rusk*

**17.57 SW-1: SHORELAND AND SHORELAND/WETLAND DISTRICT  
(OVERLAY DISTRICT)**

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## 1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

1.1 STATUTORY AUTHORIZATION. This ordinance is adopted under the authority of s. 59.692 and s. 87.30, Wis. Stats., in order to satisfy the requirements of s. 59.692 and s. 87.30, Wis. Stats., and to implement s. 59.69, 59.694, 281.31 and 236.45, Wis. Stats.

1.2 FINDING OF FACT. Uncontrolled use of the shorelands and pollution of the navigable waters of Rusk County would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Rusk County, Wisconsin.

1.3 PURPOSE. For the purpose of promoting the public health, safety, convenience and welfare, this

ordinance has been established to:

**1.31 FURTHER THE MAINTENANCE OF SAFE AND HEALTHFUL CONDITIONS AND PREVENT AND CONTROL WATER POLLUTION THROUGH:**

1. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
2. Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities and wells.
3. Controlling filling and grading and to prevent soil erosion.

**1.32 PROTECT SPAWNING GROUNDS, FISH AND AQUATIC LIFE THROUGH:**

1. Preserving wetlands and other fish and aquatic habitat.
2. Regulating pollution sources.
3. Controlling shoreline alterations, dredging and lagooning.

**1.33 CONTROL BUILDING SITE, PLACEMENT OF STRUCTURES AND LAND USES THROUGH:**

1. Separating conflicting land uses.
2. Prohibiting certain uses detrimental to the shoreland area.
3. Setting minimum lot sizes and widths.
4. Regulating side yards and building setbacks from waterways.

**1.34 PRESERVE SHORE COVER AND NATURAL BEAUTY THROUGH:**

1. Restricting the removal of natural shoreland cover.
2. Preventing shoreline encroachment by structures.
3. Controlling shoreland excavation and other earth moving activities.
4. Regulating the use and placement of boathouse, piers and other structures.

**1.4 TITLE.** This ordinance shall be known as the Shoreland and Shoreland/Wetland Zoning Ordinance for Rusk County, Wisconsin.

**1.5 APPLICATION OF THE RUSK COUNTY ZONING ORDINANCE.** The provisions of the Rusk County Zoning Ordinance are hereby incorporated by reference. These provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.

**2.0 GENERAL PROVISIONS**

**2.1 AREAS TO BE REGULATED.** Areas regulated by this ordinance shall include all the land (referred to herein as shorelands and shorelands/wetlands) in the unincorporated areas of Rusk County which are:

2.11 Within one thousand (1,000) feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Rusk County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Rusk County" or as shown on United States Geological Survey quadrangle maps or other zoning base maps.

2.12 Within three hundred (300) feet of the ordinary highwater mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Rusk County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. County soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.

2.13 Contiguous Wetlands are delineated as wetlands on Wisconsin Wetland Inventory Maps for Rusk County and which are at least partially within the shoreland area described in Sections 2.11 and 2.12. Such wetlands shall be regulated as if they were entirely within the shoreland area.

2.14 Determinations of navigability and ordinary highwater mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary highwater mark.

2.15 Under s. 281.31(2m), Wis. Stats. notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to a natural navigable stream, river, lake or pond.
2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
3. Such lands are maintained in nonstructural agricultural use.

2.2 SHORELAND ZONING MAPS. The most current, latest print maps designated below are hereby adopted and made part of this ordinance. They are on file in the office of the zoning administrator for Rusk County.

1. United States Geological Survey Quadrangle Maps for Rusk County.
2. Most current available Wisconsin Wetland Inventory maps stamped "FINAL."
3. Floodplain zoning maps identified as FEMA.

2.3 COMPLIANCE. The use of any land or water, the size, shape and placement of lots, the use, size, type and locations of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, Section 10.0 provides for standards applicable to nonconforming uses.) Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

2.4 ANNEXED AND NEWLY INCORPORATED AREAS. The Rusk County shoreland and wetland zoning provisions in effect on the date of annexation or of town incorporation remain in effect and will be administered by the annexing or incorporating city or village for all areas annexed after May 7, 1982 or

incorporated after April 30, 1994 unless the alternatives provided under s. 59.692 (7), Stats. are enacted.

**2.5 MUNICIPALITIES AND STATE AGENCIES REGULATED.** Unless specifically exempted by laws, all cities, villages, towns and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.12(4)(a), Wis. Stats., applies.

**2.6 ABROGATION AND GREATER RESTRICTIONS.** The provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under s. 59.69, Wis. Stats., which relate to shorelands/wetlands. However, where an ordinance adopted under a statute other than s. 59.69, Wis. Stats., is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

✓ **2.61** This ordinance shall not require approval or be subject to disapproval by any town board. ✓

**2.62** If an existing town ordinance relating to shoreland/wetland is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of greater restrictions but not otherwise.

✓ **2.63** This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

**2.7 INTERPRETATION.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the ch. NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

**2.8 SEVERABILITY.** If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

**3.0 LAND DIVISION REVIEW.** Any division of lands in the shoreland and shoreland/wetland district shall meet the requirements of s. 236.45, Wis. Stats., and the Rusk County Subdivision Code, Chapter 18.

**3.1** Any division of lands in the shoreland and shoreland/wetland district shall meet the requirements of s. 236, Wis. Stats., and the Rusk County Subdivision Code, Chapter 18. In such review the following factors shall be considered:

1. Hazards to the health, safety or welfare of future residents.
2. Proper relationship to adjoining areas.
3. Public access to navigable waters, as required by law.
4. Adequate storm drainage facilities.
5. Conformity to state law and administrative code provisions.

**3.2 SANITARY REGULATIONS.** The county has adopted sanitary regulations for the protection of health

and the preservation and enhancement of water quality.

(1) Where a public sewer collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by a private sewage system ordinance adopted by the county under s. 59.70 (5) Wis. Stats.

3.21 Any building, structure, trailer, tent, or other improvement to real estate located on land covered by the provisions of this ordinance which is designated for, meant for use as or is used for human habitation or as a dwelling for any period of time, and is to remain on such land for a period greater than 30 days in any calendar year shall be connected to a state complying sanitary system. ✓

3.22 For purposes of Sec. 3.2, in a case where no building, structure, camp trailer, mobile home, tent or other improvement(s) on any parcel of land has/have water plumbed into it/them, so long as any water used for drinking, cooking, bathing or other such human needs must be carried to and from the premises (i.e. no well on the property), so long as the premises is not served by electricity, and so long as all of the buildings, structures, trailers, tents, or other improvements are at least 75' from any wetland or navigable water, such premises may be served by a privy. Such privy shall be built pursuant to and in compliance with a sanitary permit. When and/or if any of the special conditions outlined above no longer exist, (i.e. on-site water or electricity service obtained), a state complying, on-site sewage disposal system shall be installed. X

3.23 The provisions of Section 10.0 shall not apply to the requirement set forth above, and no habitation or dwelling shall be exempt from the provision set forth in 3.2 above by virtue of its existence or use prior to adoption of this ordinance.

3.24 Requirements for Developed Properties. Property owners requesting a Land Use Permit to complete expansion or alterations of existing principal structures shall:

(1) Verify or prove that the system is compliant with Comm 83 standards.

NOTE: Existing private sewage systems installed in or after 1982 that have soil profile descriptions, system evaluations and inspection reports filed in the Rusk County Zoning Office meet this requirement.

4.0 DIMENSIONS OF BUILDING SITES. Notwithstanding the provisions of the Rusk County comprehensive Zoning Code or any other Rusk County Ordinance, the following shall apply to all areas within the Shoreland and Shoreland/Wetland District (Overlay District) of Rusk County. The following dimensional requirements are not meant to be an all-inclusive list nor to exclude those requirements not specifically addressed and in the case of a conflict, are to be considered minimum standards.

4.1 MINIMUM AREA AND WIDTH FOR EACH PRINCIPLE STRUCTURE. The minimum lot area shall be 20,000 square feet of land and the minimum lot width shall be 100 feet with at least 100 feet of frontage at the ordinary highwater mark.

4.2 SIDE YARDS. There shall be a side yard for each principle structure. The minimum width of one main side yard shall be 15 feet. The minimum combined width of both main side yards shall be 35 feet. There shall be a side yard of 5 feet for accessory structures excluding fences.

4.3 LOT DEPTH TO WIDTH RATIO. No lot shall be more than 6 times as deep as it is wide.

4.4 LIMITATIONS. (a) Any lot which, on the day of the adoption of this amendment to the Rusk County Shoreland and Shoreland/Wetland Zoning Ordinance, was platted, approved as may be required, and recorded with the Rusk County Register of Deeds shall continue to be a legal and buildable lot and subject to applicable setbacks.

(b) It is the intent of this Ordinance that minimum lot areas and dimension requirements be met by including



in a contiguous parcel enough buildable land of such size, shape and dimension as to accomodate a principle structure, accessory buildings, on-site sewage disposal, a suitable alternate site for sewage disposal, and all required setbacks. Accordingly, no minimum area or dimension requirement established for any lot in the Shoreland and Shoreland/Wetland areas in Rusk County from the date of the adoption of this amendment and thereafter, shall be computed with reference to:

1. Any land that is any part of the bed of any lake, pond, flowage or wetland, natural or manmade, meandered or non-meandered, dammed or not dammed, that is below the ordinary high water mark of said lake, pond, wetland, or flowage.
2. Any land that is any part of the bed of any river or stream that is below the ordinary high water mark of said river or stream.
3. Any land that is any part of any road easement. For these purposes "road easement" shall mean any platted areas reserved for private or possible future access to the lot(s) in question as required by Chapter 18 of Rusk County ordinances or otherwise, or the dedicated public right-of-way. In any case where a "road easement" bisects a lot, each piece must be large enough on its own to meet the minimum standards of this Ordinance.
4. Any such lands as outlined in 1, 2, & 3 above may, to the extent desired and/or otherwise allowable, be deeded to any purchaser of any lot. The limitation is that such lands not be used to meet any minimum size or dimension standard.

(c) The dimensional requirements of Section 17.59 of the Rusk County Comprehensive Zoning Code are hereby adopted as part of the Shoreland and Shoreland/Wetland Ordinance except that where any particular requirements has been modified by provisions of this Ordinance, such modifications shall apply and except that such adoption shall not be construed as allowing any use or activity that, under the terms of this ordinance, is not allowable.

(d) The provisions of Sections 4.0, 4.1, 4.2, 4.3 and 4.4(b) shall not be subject to variance.

Ordinance #98-07 Adopted by  
Rusk County Board on 2/24/98

4.41 Outlot Restrictions. The plat and deed for any outlot that does not meet the lot area, width or elevation requirements specified in Section 4.0 shall include a restriction prohibiting the construction of buildings for human habitation.

4.42 (a) No outlot access driveways shall be permitted for outlots on county, state or federal highways. Pedestrian access which requires fill or an alteration of road construction shall be approved by the County Highway Commissioner in the case of highways and the Wisconsin Department of Transportation in the case of state or federal highways and shall be limited to a 3 foot width of surface per lot.

(b) Town Boards shall have the authority to approve or deny outlot access driveways on town roads.

4.5 No condominium or other development offering riparian rights to any of its units shall be approved unless it meets the following standards:

1. Each unit shall include a minimum of 1000 square feet of land or enclosed living space which shall be within 300 feet of the ordinary high water mark of the water body to which the riparian rights pertain.
2. Each unit shall include contiguous land with a minimum of 100 feet of shoreline, or alternatively, the common area of the condominium or other development shall include shoreline equal to a minimum of 100 feet for each unit.

5.0 SHORELINE BUFFER AREA. - A shoreline buffer area shall be maintained in order to protect water quality, natural scenic beauty, fish and wildlife habitat and for the purposes enumerated in Section 1.3. The 75-foot setback requirement under Section 5.1 of this shoreland zoning ordinance shall be the absolute last dimensional standard to be varied and then only to the extent absolutely necessary and then only once for a specific structure.

5.1 (a) LOTS THAT ABUT ON NAVIGABLE WATERS. All buildings and structures, temporary or permanent including but not limited to satellite dishes and antennas, decks, above-ground fuel tanks, ice shacks, recreational vehicles such as motor homes, campers, trailers, mobile homes and pickups with toppers, and gazebos (except stairways, walkways and piers which meet the standards in Section 5.3 of this Ordinance, boat hoists, boathouses, and open fences which may require a lesser setback) shall be set back at least 75 feet from the ordinary highwater mark. Shoreline setbacks shall be measured horizontally from the most waterward projection of a structure to the ordinary highwater mark. ←

5.1 (b) Any second or subsequent accessory building shall be set back 150 feet from the ordinary high water mark. Structures under 200 square feet shall not be required to meet this set back.

#### 5.11 ACCESSORY USES AND STRUCTURES

(a) Any permanent, roofed structure serving as an accessory, if attached to the principal building, shall maintain all setbacks for principal structures as defined in Section 17.57.

(1) No permit shall be granted for any second or subsequent accessory building unless there is adequate space on the lot suitable for replacement septic system after construction of the accessory building.

(2) No permit shall be granted for any second or subsequent accessory building unless there is adequate space on the lot suitable to bring any nonconforming structure on the lot into compliance with setback and other zoning requirements after construction of the accessory buildings.

✓ 5.12 All structures must be built outside of any easement, public highway, dedicated road, or road right-of-way. Section 17.11 (1) applies in areas governed by County Comprehensive Zoning.

Res.# 99-08 Adopted by Rusk Co. Board 2/23/99

✓ 5.2 REDUCED BUILDING SETBACKS. Setback reduction may be permitted by the Board of Adjustment, pursuant to Section 11.5 of this Ordinance. Structures authorized by variance do not establish a new setback line since case by case application of variance is required.

✓ 5.21 Reduced Roadway and Shoreline Setbacks for Principal Structures on Nonconforming Lots. This section applies to new development and redevelopment where a nonconforming structure has been removed on nonconforming lots. Existing nonconforming structures are specifically excluded from these provisions.

(1) If a nonconforming lot is deep enough to comply with required roadway and shoreline setbacks, the roadway setback from a nonconforming waterfront lot may be reduced until a 30 foot deep building site is established provided the resulting roadway setback is not less than one half (1/2) the required roadway setback. In such cases no doorway may open toward and no parking area may be located in the reduced roadway setback area. No structure may be located in a road right-of-way.

(2) If the roadway setback reduction in Section 1 above does not provide a 30 foot deep building site, the shoreline setback may then be reduced until a 30 foot deep building site is established, provided the resulting shoreline setback is not less than 2/3 the required shoreline setback. In such case, the mitigation requirements of Section 10.4 shall be implemented.

5.3 STAIRWAYS, WALKWAYS, PIERS. Stairways, elevated walkways, and that portion of piers landward of the ordinary highwater mark are exempt from the shoreline setback requirement, provided:

1. The structure is necessary to access or protect the shoreline because of steep slopes or wet, unstable soils.
2. The structure shall be located so as to minimize earth disturbing activities and shoreline vegetation removal during construction and be visually inconspicuous as viewed from the adjacent

waterway. Lattice work shall not be allowed.

3. Railings are permitted where required by safety concerns, State Statutes or State regulations.
4. Stairways shall be supported on piles or footings rather than being excavated from erodible soils, steep slopes or a bluff face.
5. Canopies and roofs on such structure are prohibited.
6. The combined area of landings for a stairway and the landward side of a pier may not exceed 128 square feet for each buildable lot. Each single stairway landing may not exceed 36 square feet in area. Landings shall not be adjacent to each other and they must be separated by at least a 10 foot vertical distance.
7. Standards for removal of shoreline vegetation in Section 6.0 shall be complied with.

#### **5.4 BOATHOUSE**

1. Boathouses shall be designed, constructed, and used solely for the storage of boats and related equipment and shall not be used for human habitation or occupancy. Boathouses shall not be equipped with a potable water supply, fireplaces, patio doors, furniture or any features inconsistent with the use of the structure exclusively as a boathouse. Boathouses shall have a gable roof with 4/12 pitch or greater.
2. Boathouses shall not be placed waterward beyond the ordinary highwater mark.
3. Only one boathouse is permitted for each buildable lot.
4. Boathouses shall not be excavated into an existing slope of more than 35%.
5. Boathouses shall be set back a minimum of four feet from and one foot above the ordinary highwater mark and shall be constructed in conformity with local floodplain zoning standards.
6. Boathouses shall not exceed one story. Maximum height from the boathouse floor to the roof peak shall not exceed thirteen feet. The floor area shall not be less than 200 square feet and shall not exceed 400 square feet. The width of the boathouse cannot exceed 2/3 the length.
7. The maintenance and repair of existing nonconforming boathouses which extend beyond the ordinary highwater mark shall comply with the requirements of s. 30.121, Wis. Stats.
8. Standards for removal of shoreline vegetation in Section 6.0 shall be complied with.

#### **5.5 PIERS, DOCKS OR WHARFS.** The following regulations apply to piers, docks, wharfs and similar structures.

1. Maximum number of berths and moorings are limited to two for the first 50 feet of frontage and one for each additional 50 feet of shoreline that is owned by the property owner.
2. Unless limited by other requirements, a pier may extend waterward the greater of the following:
  - (a) Boat length
  - (b) The three (3) foot depth contour

- (c) A deeper contour if required by the draft of craft using the pier
- (d) The Wisconsin DNR-approved municipal pierhead line
- 3. Six-foot maximum width to allow safe loading of gear and passengers.
- 4. Finger piers ("T" or "L" shape) may be used to provide mooring slips or to stabilize a pier.
- 5. Construction of piers, docks and wharfs are to adhere to the following standards;
  - (a) A pier or wharf must be floating or placed on poles or posts.
  - (b) Polystyrene floats must be coated or contained to resist gas, oil and abrasion. Metal drums must be free of any product residue and be corrosion resistant.
  - (c) Solid docks on fill and piers on rock-filled timber cribs, pile clusters or similar foundations are not allowable.
  - (d) A pier or wharf may not obstruct the free flow of water or include any feature which traps or accumulates aquatic plants or sediment.
  - (e) No enclosure of water surface is permitted by box-shaped docks, piers, wharfs or similar structures.
  - (f) Roofs, canopies, decks, water slides and other construction not essential for mooring water craft are prohibited.
- 6. Any limitation or restriction imposed or created by the application of Section 17.57 (4.1) of this code. Res.# 97-09 Adopted by Rusk Co. Board 2/11/97

**5.55 BOAT LIFTS AND SHELTERS.** The following standards apply to boat lifts and shelters;

- 1. Boat shelters may have a roof or canopy which blends with the shoreline background but may not have sides or walls. Older canopies which do not blend with the shoreline may continue to be used until January 1, 1996.
- 2. Shelters do not require a permit if removed from waters between December 1 and April 1 annually. They still must comply with standards in NR 326.
- 3. A permanent boat shelter requires a DNR permit and must meet standards in NR 326.

**6.0 REMOVAL OF SHORE COVER**

**6.1 PURPOSE.** The purpose of tree and shrubbery cutting regulations applicable to the shoreland area is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland. The provisions shall not apply to the removal of individual dead, diseased or dying trees or shrubbery at the direction of the landowner, or to individual trees that pose a threat of falling on or otherwise damaging property owners structures.

**6.2 VEGETATION PROTECTION AREA.** Land disturbing activities and vegetation removal are prohibited in any area parallel to the ordinary highwater mark and extending 35 feet inland from all points along the

ordinary highwater mark, with these exceptions:

6.21 Establishment of a single view corridor on each lot containing a principal structure by selective pruning and removal of trees and shrubbery. The corridor shall be no more than 30 feet wide in the dimension paralleling the shore.

6.22 Dead, diseased and dying trees which are a safety hazard or which threaten buildings and nuisance and exotic species may be removed provided they are replaced with comparable native species as soon as practicable.

6.23 Habitat improvement, voluntary shoreland buffer restoration and mitigation required under Section 10.4.

6.24 Piers, boathouses and boat hoists,

6.25 Pedestrian access to the shoreline and elevated walkways in compliance with Section 5.3.

6.26 Shoreline and upland erosion control structures and activities approved by the Rusk County Zoning Department.

6.27 Public and private roadways and utilities which are stream crossings or essential to access property, and public water access facilities.

6.28 Maintenance of lawns or landscaping established prior to January 1, 1999, unless shoreline erosion is existing and requires control. However, such lawns and landscaping shall not be expanded or extended contrary to the provisions of Section 6.2. This exception shall not apply if vegetative buffer restoration is required by other sections of this ordinance.

6.3 CUTTING MORE THAN 35 FEET INLAND. From the inland edge of the 35-foot area to the outer limits of the shoreland district, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

## 7.0 LAND DISTURBING ACTIVITIES LANDWARD OF THE VEGETATION PROTECTION AREA.

7.1 GENERAL STANDARDS. Filling, grading, lagooning, dredging, ditching or excavating may be permitted in the shoreland area provided that:

7.11 It is done in a manner designed to minimize erosion, sedimentation or impairment of fish and wildlife habitat.

7.12 Filling, grading, lagooning, dredging, ditching or excavating in shoreland-wetland district meets the requirements of sections 8.32 and 8.33 of this ordinance.

7.13 All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.

7.14 Any fill placed in the shoreland area is continually protected during construction against erosion by the use of riprap, jute netting, plastic cover, filter fabric fencing, etc.

7.15 No more than 50% of each shoreland lot or 25,000 square feet, whichever is less, may be disturbed for any construction.

7.16 The provisions of 7.15 and 7.2 shall not apply to the reconstruction of substantially damaged commercial structures which:

- (1) were originally constructed prior to (insert adoption date);
- (2) do not comply with the standards of 7.15 and 7.2;
- (3) are damaged in excess of 50% of current equalized assessed value; and
- (4) are granted a conditional use permit requiring that all runoff from a ten year frequency storm event be retained on the property and that reconstruction conform to the extent practicable with the objectives of Section 1.3.

7.17 Where a DNR permit has been issued, which meets the substantial concerns of this ordinance, no county permit will be required unless the county ordinance is more restrictive.

## ✓ 7.2 IMPERVIOUS SURFACE STANDARDS.

(1) No more than 15% of each shoreland lot within 200 feet of the OHWM shall be covered by buildings and no more than an additional 5% shall be covered by other impervious surfaces.

⇒ *Change*  
 (2) However, on parcels zoned industrial, commercial or multi-family, an approved stormwater management plan may be implemented as an option to (1) above. Such plan shall provide that there will be no increase in stormwater discharge from the parcel as a result of the proposed construction for storms up to and including the 10 year, 24 hour storm event. The plan shall be certified by a registered professional engineer or, at the county's option, the applicant shall provide funds to defray the costs of county preparation of a plan.

7.3 LANDWARD OF THE VEGETATION PROTECTION AREA. Land disturbing activities landward of the vegetation protection area, which are within 300 ft. of the OHWM of navigable water and which has surface drainage toward the water shall be regulated as follows:

### 7.31 Slopes of less than 15% and areas of 1,000 sq. ft. or less.

On slopes of less than 15% where land disturbing activities expose 1,000 sq. ft. or less, such activities shall be performed using appropriate best management practices specified in the manual for construction site erosion control published by the Wisconsin Department of Natural Resources. No permit shall be required for such activities provided appropriate best management practices are followed. However, should any sediment or deleterious substance be discharged to any waterway or wetland as a result of such activities, the County Zoning Department shall direct the responsible parties to perform such actions as are reasonably necessary to remove the discharge, restore the site to its former condition and fully repair any environmental damage.

### 7.32 Slopes of 15-45% or areas in excess of 1,000 sq. ft.

On slopes of 15-45% and where land disturbing activities expose in excess of 1,000 sq. ft. cumulatively, a stormwater management and erosion control plan approved by the Zoning Department is required. A plan may be approved if appropriate best management practices specified in the manual for construction site erosion control published by the Wisconsin Department of Natural Resources are employed in addition to the following standards and such other requirements as the administrator judges to be necessary to serve the objectives of this ordinance:

- (1) the area of soil exposed and duration of exposure shall be minimized;
- (2) prior to site clearing berms, swales or other appropriate techniques shall be employed to divert runoff away from exposed soils until they are stabilized by vegetation or other means;
- (3) excavated materials shall be confined by filter fabric fencing or other appropriate means until they are employed as backfill, final grading materials or are otherwise permanently stabilized;
- (4) fill shall not be deposited in any floodplain, wetland or outside the designated construction area

without proper written authorization;

(5) post construction runoff shall be infiltrated or stored to prevent erosion and sediment transport;  
and

(6) upland slopes and artificial water courses shall be stabilized according to accepted engineering standards.

If the applicant and the administrator cannot agree on an acceptable plan, the applicant may apply to the planning and zoning committee for a conditional use permit (CUP). The standards listed above shall apply in addition to other requirements related to grant or denial of a CUP.

#### Notification of affected parties

The Zoning Department shall mail notice of the project to property owners within 300 feet of the project site advising that the project may be approved if no objection is received within 10 working days of mailing of the notice. Objections must be substantive and relate to the standards for erosion control and stormwater management plan approval. If a timely objection is received, the matter shall be reviewed as a CUP application.

#### Preconstruction verification of erosion control practices

The applicant shall provide photographic evidence or certification by a registered professional engineer or landscape architect that the pre-site clearing erosion control measures specified in the plan have been installed before a conditional use permit may be issued by the County Zoning Department.

#### 7.33 Slopes in excess of 45%

On slopes in excess of 45% land disturbing activities are prohibited on shoreland that drain to surface waters.

#### 7.4 SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE.

7.41 Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under section 7.3 when designed and constructed to Natural Resource Conservation Service technical standards.

7.42 The maintenance of existing agricultural drainage systems shall be permitted when designed and constructed to Natural Resource Conservation Service technical standards.

#### 8.0 SHORELAND-WETLAND DISTRICT.

8.1 DESIGNATION. This district shall include all shorelands within the jurisdiction of this ordinance which are wetlands of five acres or more (excluding point symbols), and which are shown on the Wisconsin Wetland Inventory maps that are adopted and made a part of this ordinance. A portion of a wetland which is less than five acres in size, and which is located in the unincorporated shoreland area within the county, shall be included in the shoreland/wetland district where the wetland as a whole is five acres or larger, but extends across the corporate limits of a municipality, across the county boundary or across the shoreland limits, so that the wetland is not regulated in its entirety by the county.

8.11 LOCATING SHORELAND-WETLAND BOUNDARIES. Where an apparent discrepancy exists between the shoreland/wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the Department to determine if the shoreland/wetland district boundary as mapped is in error. If Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or

*allows for errors*

deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The zoning administrator shall initiate a map amendment to correct the discrepancy.

**8.2 PURPOSE.** This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

**8.21 Wetlands are seldom suitable as building sites for the following reasons:**

1. Septic tank systems will not function because of high groundwater.
2. Water supplies are often polluted by septic tank wastes that have not been adequately absorbed by the soil.
3. Foundations and roads crack due to poor support capabilities and frost action.
4. Flooding is common in spring and other times of high water.

**8.22** Wetlands provide fish spawning grounds and wildlife habitat, and the natural plant and animal communities found in wetlands provide ecological balance to a watercourse. Wetlands help to prevent water pollution and flooding problems.

**8.3 PERMITTED USES.** The following uses shall be allowed, subject to general shoreland and shoreland/wetland zoning regulations contained in this ordinance, the provisions of chs. 30 and 31, Wis. Stats. and the provisions of other applicable local, state and federal laws:

**8.31** Activities and uses which do not require the issuance of a land use permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under sections 8.32 or 8.33.

1. Hiking, fishing, trapping, hunting, swimming and boating;
2. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
3. The pasturing of livestock and the cultivation of agricultural crops without disturbing the ecological balance;
4. The practice of silviculture, including the planting, thinning and harvesting of timber; and
5. The construction or maintenance of duck blinds.

**8.32** Uses which do not require the issuance of a land use permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:

1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
2. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;
3. The maintenance and repair of existing agricultural draining systems including ditching, tiling,



dredging, excavating and filling when designed and constructed to SCS technical standards;

4. Limited excavating and filling necessary for the construction and maintenance of piers, docks and walkways built on pilings;

5. Limited excavating and filling necessary for the construction and maintenance of fences for the pasturing of livestock; and

6. Limited excavating and filling necessary for the routine maintenance or repair of existing town and county highways and bridges.

8.33 Uses which require the issuance of a land use permit under section 11.2 and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:

(a) The road cannot as a practical matter be located outside the wetland;

(b) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in sections 8.2 and 8.52;

(c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

(d) Road construction activities are carried out in the immediate area of the roadbed only.

2. The construction or maintenance of nonresidential buildings, provided that:

(a) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals, or some other use permitted in the shoreland-wetland district;

(b) The building cannot, as a practical matter, be located outside the wetland;

(c) Such building is not designed for human habitation and does not exceed 500 square feet in floor area; and

(d) Only limited filling or excavating necessary to provide structural support for the building is authorized.

3. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:

(a) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable;

(b) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 8.33(1)(a)-(d); and

(c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and

recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

4. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities, cooperative associations or a governmental body organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:

(a) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland; and

(b) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in section 8.52.

8.4 **PROHIBITED USES.** Any use not listed in sections 8.31, 8.32 or 8.33 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 8.5 of this ordinance and s. 59.69(5)(e), Wis. Stats. (Chapter NR-115 Wis. Adm. Code).

#### **8.5 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.**

8.51 For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate district office of the Department shall be provided with the following:

1. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
3. A copy of the county zoning department's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board; and
4. Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.

8.52 A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

1. Storm and flood water storage capacity or flow;
2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
4. Shoreline protection against soil erosion;
5. Fish spawning, breeding, nursery or feeding grounds;
6. Wildlife habitat; or

7. Areas of special recreational, scenic or scientific interest, including scarce wetland types. *Thought out*

8.53 If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland/wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in section 8.52 of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

"This amendment shall not take effect until more than thirty days have elapsed after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During that thirty-day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.692(6), Wis. Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.971(6), Wis. Stats., adoption procedure is completed or otherwise terminated."

## 9.0 CAMPGROUNDS, RESORTS, RECREATIONAL VEHICLE PARKS, TRAILER CAMPS AND MOBILE HOME PARKS.

9.1 The provisions of this section (Shoreland and Shoreland/Wetland Overlay) including but not limited to Sections 5.0, 6.0, 7.0, 9.0, 11.4 and 11.5 in their entirety, shall apply to each installation as defined herein.

9.2 Density: Not more than one installation shall be allowed in any two miles of shoreline. The two-mile distance in this case shall be measured along a line that follows the shoreline in question. The intent is to not follow the abrupt ins and outs of a shoreline but rather use an average shoreline.

9.3 Proximity: Not more than one installation shall be allowed within two miles straight-line distance in any direction from another installation.

## 10.0 NONCONFORMING USES AND STRUCTURES

10.1 GENERAL PROVISIONS. The lawful use of a building, structure or property which existed at the time this ordinance (or an applicable amendment to this ordinance) took effect and which is not in conformity with the provisions of this ordinance, including the routine maintenance of such building or structure, may be continued, subject to the conditions of this section.

### 10.2 NONCONFORMING USES

10.21 A property owner claiming a nonconforming use and exemption from applicable regulations shall prove by a preponderance of the evidence that:

- (1) the use was legally established;
- (2) the use predated zoning provisions with which it does not comply;
- (3) the use was active and actual prior to adoption of such provisions and not merely casual and occasional or incidental to the principal use of the property in which case no vested right to continue the use shall have been acquired.

10.22 A nonconforming use of a structure or premises shall not be expanded or enlarged. No such use shall be expanded within a structure which, on the date the use became nonconforming, was only partially devoted to such use.

10.23 Discontinuance. If a nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.

**10.24 Temporary Structures.** If the nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommenced.

**10.25 Nuisances.** Uses which are nuisances shall not be permitted to continue as nonconforming uses.

### **10.3 NONCONFORMING STRUCTURES**

**10.31 Intent.** It is the intent of this section to balance the public objectives of this ordinance with the interests of owners of existing nonconforming structures by:

- (1) Treating a principal structure less restrictively than an accessory structure since a principal structure is essential to reasonable use of the property.
- (2) Treating a structure which is almost conforming less restrictively than one which is grossly noncompliant.
- (3) Allowing for maintenance, repair, and internal improvements of existing structures essential to the continued reasonable use of the property.
- (4) Allowing for limited expansion or improvements of existing structure provided the adverse effects of such improvement or expansion are mitigated.
- (5) Limiting the extent of expansion of principal structures to minimize adverse water quality, shoreland buffer zone, aesthetic and other impacts from such expansion, and to provide incentive for property owners seeking major expansions, to consider relocating the principal structure beyond the shoreland setback area.
- (6) Allowing for the internal improvement for principal structures close to the water, provided they are not essentially rebuilt.
- (7) Encouraging removal of accessory structures from the setback area in order to promote better buffer areas and decrease runoff to the water body.

### **10.32 NONCONFORMING ACCESSORY STRUCTURES**

- (1) Nonconforming accessory structures are limited to ordinary maintenance and repairs and shall not be expanded.

### **10.33 NONCONFORMING PRINCIPAL STRUCTURES**

**10.331 NONCONFORMING PRINCIPAL STRUCTURES THAT MEET THE OHWM SETBACK** are permitted ordinary maintenance and repair. Such structures may be altered or expanded provided that:

- (1) Modification or replacement of no more than 25% of the structural members of the existing external wall perimeter is permitted.
- (2) The lifetime total of all expansions is limited to 50% of the structure's enclosed, habitable footprint which existed at the time the structure became nonconforming.
- (3) Limitations on construction of impervious surfaces and land disturbing activities in 7.0 are observed; and
- (4) /the mitigation requirements of Section 10.4 are implemented.

**10.332 NONCONFORMING PRINCIPAL STRUCTURES 0-50 FEET FROM THE OHWM** shall not be expanded but are permitted ordinary maintenance and repair and unlimited internal improvement provided

that:

*changed to 50% in 04*

- (1) Modification or replacement of no more than 25% of the structural members of the existing external wall perimeter is involved
- ✓ (2) Roof replacement is limited to a maximum of a 6/12 pitch or the current pitch if greater;
- (3) Internal improvement is confined to the building envelope (i.e. no new foundations, additional stories, lateral expansion or accessory construction outside of the perimeter of existing enclosed dwelling space) and;
- (4) The mitigation requirements of Section 10.4 are implemented.
- (5) Decks and porches may be replaced in the same footprint and location as the existing deck or porch, provided one (1) point of mitigation, as described in Section 10.4 is chosen and implemented.

**10.333 NONCONFORMING PRINCIPAL STRUCTURES 50-75 FEET FROM THE OHWM** are permitted ordinary maintenance and repair and may be improved and expanded provided that:

- (1) The existing principal structure (building) includes at least 700 square feet of enclosed, habitable living space;
- (2) No more than 25% of the structural members of the existing external wall perimeter are modified or replaced. Rearrangement of same size windows and doors is permitted.
- (3) Expansion is limited to a maximum 1500 square feet footprint (total of existing and proposed construction) unless otherwise limited by the impervious surface standards of Section 7.16;
- (4) Additions are located on the landward side of the structure;
- (5) New foundations are not included (extension of an existing foundation and new foundations on additions greater than 75' from the OHWM are permitted)
- (6) An additional story:

(a) does not exceed the footprint of the original structure;

(b) does not result in a structure of more than two stories (

(c) complies with sideyard requirements; and

(d) does not include a roof pitch greater than 6:12 or the current pitch if greater

(7) Limitations on construction of impervious surfaces and land disturbing activities in 7.0 are observed; and

(8) The mitigation requirements of Section 10.4 are implemented.

**10.34 NONCONFORMING SIGNS** shall not be expanded. Refacing and replacement of structural members is permitted.

**10.35** A structure that is nonconforming as to structural, dimensional or setback standards may not be expanded or enlarged so as to increase its nonconformity.

**10.36** Nonconforming structures which are located in more than one setback zone shall comply with the standards of the more restrictive zone.

**10.4 MITIGATION.** A plan to mitigate for the adverse effects of any shoreline setback nonconformity shall be implemented concurrent with expansion of such structures. The plan and the compliance schedule shall be approved by the zoning administrator and recorded by the property owner with the deed to the property prior to issuance of the related zoning permit. The following mitigation practices are mandatory for all such projects:

- (1) The associated privately owned wastewater treatment system must be evaluated and upgraded as appropriate (DCOMM 83.055 (3)(b)(1 & 3); and

(2) Standard erosion & storm water runoff control measures must be implemented and all mitigation activities shall comply with Section 7.0 regarding land disturbing activities.

In addition, a property owner shall choose at least three points of proposed or current practices from among the following mitigation practices:

(1) Restore and maintain native vegetation and water quality protection functions of the shore buffer area within 35 ft. of the ordinary highwater mark [3 points], or

(2) Restore and maintain native vegetation and water quality protection functions of both sideyards [1 point].

(3) Remove nonconforming accessory buildings from the shoreline setback area [1 point per building of <100 sq. ft., 2 points per building of 100-400 sq. ft. and 3 points per building of >400 sq. ft.].

(4) Other practices as agreed by the Zoning Department [as determined by the Zoning Committee]. Examples may include modified buffers, directional lighting, building colors that blend with the natural vegetation, replacement of seawalls with bioengineered structures, a stormwater management plan that handles all discharge from the property from the 10 year 24 hour storm event or removal of artificial sand beaches. Points may vary from one to three for such practices.

10.5 DEMOLITION OF NONCONFORMING STRUCTURES. If more than 25% of the structural members of the existing external wall perimeter of a nonconforming structure has been demolished or significantly altered, any subsequent reconstruction shall comply with all the terms of the ordinance.

10.51 Nonconforming Structures Damaged or Destroyed by Violent Wind, Fire, Flood or Vandalism. As required by s. 59.692 (1s), Wis. Stats., if a landowner can establish that a nonconforming structure has been destroyed or damaged after October 14, 1997 by violent wind, fire, flood or vandalism, the structure may be reconstructed or repaired to the size, location and use it had immediately before the damage occurred, subject to the following conditions:

(1) A structure that is destroyed or damaged due to a deliberate act by the landowner or by his or her agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the standards of this ordinance.

X (2) Except as provided in s. 87.30 (1d), Wis. Stat., nonconforming buildings that are subject to regulation under a floodplain zoning ordinance may not be reconstructed or repaired except in compliance with the floodplain zoning ordinance.

(3) The landowner shall bear the burden of proof as to the size, location or use a destroyed or damaged nonconforming structure had immediately before the destruction or damaged occurred.

(4) Repairs are authorized under this provision only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire or flood, and only that portion of the nonconforming structure that has been destroyed may be reconstructed.

(5) In conformity with provisions of Sec. 10.4.

10.6 EXCEPTIONS. If the alteration, addition or repair of a building or structure with a nonconforming use is prohibited or if the alteration, addition or repair of a nonconforming building or structure is prohibited because it is in excess of 50 percent of the structure's enclosed, habitable footprint, the property owner may still make the proposed alteration, addition or repair if:

- (1) A nonconforming use is permanently changed to a conforming use;
- (2) The property owner appeals the determination of the zoning administrator under s.59.694(4) or 59.694(10), Stats.
- (3) The property owner successfully petitions to have the property rezoned by amendment to this ordinance in accordance with section 12.0 of this ordinance and s.59.69(5)(e), Stats.

## **11.0 ADMINISTRATIVE PROVISIONS.**

### **11.1 ZONING ADMINISTRATOR.** The zoning administrator shall have the following duties and powers;

- 11.11 Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
- 11.12 Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- 11.13 Keep records of all permits issued, inspections made, work approved and other official actions.
- 11.14 Provide copies of variances, special use permits and decisions on appeals for map or text interpretations and map or text amendments within ten days after they are granted or denied to the appropriate district office of the Department.
- 11.15 Investigate and report violations of this ordinance to the appropriate county zoning committee and the district attorney or corporation counsel.
- 11.16 The zoning administrator and his or her appointed designees shall have powers and authority including, but not limited to the following:
- (1) Access to any structure or premises for the purpose of performing his or her duties between 8 a.m. or 6 p.m. by the permission of the owner or upon issuance of a special inspection warrant.
  - (2) Upon reasonable cause or question as to proper compliance, to revoke any land use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter.
  - (3) Citation authority pursuant to Resolutions 96-09, 96-59, and 98-50.

### **11.2 LAND USE PERMITS.**

#### **(1) PERMITTED USES IN SHORELAND**

- (a) One and two family individual dwellings.
- (b) Private garages, carports, accessory building and other land uses clearly incidental to the customary principal use.
- (c) Additions to dwellings and accessory buildings.
- (d) Customary home occupation.
- (e) Travel trailers and RV's subject to the provisions of Section 3.2.
- (f) Steps, landings, decks, patios, and walkways.
- (g) Retaining walls, within the shoreland setback, used for the control of naturally created or existing erosion problems, subject to the provisions of Section 6.2 and 7.0.
- (h) All access roads, driveways and entrances may require approval from the township and/or county highway department and may be subject to the provisions of the Rusk County Subdivision Ordinance. Outlot access is subject to Section 4.42 of this chapter.

**11.21 WHEN REQUIRED.** Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in sections 8.31 and 8.32), a land use permit shall be obtained from the zoning administrator before any new development, as defined in section 14.2. This also includes land use change or any change in the use of an existing building or structure. A permit is also required before any dimensional change including porches, decks, etc. to any building or structure or before any remodeling of any existing building or structure when the value of the remodeling exceeds 25% of the current real estate tax equalized fair market value of that particular improvement.

**11.22 APPLICATION.** An application for a land use permit shall be made to the zoning administrator upon forms furnished by the county and shall include for the purpose of proper enforcement of these regulations, the following data:

1. Name and address of applicant and property owner;
2. Legal description of the property and type of proposed use;
3. A sketch of the dimensions of the lot and location of buildings relative to the lot lines, center line of abutting highways and the ordinary highwater mark of any abutting watercourses, and water level on a date specified and location of any wetlands.
4. Location and description of any existing private water supply or sewage system or notification of plans for any such installation.

**11.23 EXPIRATION OF PERMIT.** Land use permits shall expire twelve months from date issued if no substantial work has commenced. Permitted work must be completed within 24 months from the date of issuance. Renewal of permits may be approved at no charge.

### **11.3 COMPLIANCE INSPECTIONS**

**11.31** Prior to, during and/or after construction of a structure permitted through the zoning office, the zoning administrator or other authorized persons will inspect the property to verify information given on the permit application and verify that the structure conforms to the provisions of this ordinance.

**11.32** Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises, verifying, after inspection, whether or not such building or use conforms to the provisions of this ordinance.

### **11.4 CONDITIONAL USE PERMITS**

#### **(I) CONDITIONAL USES IN SHORELAND:**

- (a) Multi-family (3 or more) dwelling units.
- (b) Rooming and boarding houses. (Bed & Breakfasts)
- (c) Mobile homes as defined in this section.
- (d) Mobile/manufactured home parks and travel trailer/RV campgrounds, subject to the provisions of Sec. 17.57 9.0, and Wisconsin Administrative Code requirements.
- (e) Public and semi-public uses including but not limited to, public and private schools, churches, public parks and recreational areas, hospitals, rest homes, and homes for the aged, fire and police stations, and historic sites.



(f) Airports.

(g) Quarrying, mining, and processing of products from these activities.

(h) Commercial and industrial establishments and uses.

(i) Commercial telephone, telegraph, and power transmission and communication towers, substations, relay, and repeater stations and accompanying towers, equipment housing and other necessary appurtenant equipment and structures.

(j) Dams, plants for production of electric power and flowage areas.

(k) Signs larger than 20 square feet or more than two per parcel.

**11.41 APPLICATION FOR A CONDITIONAL USE PERMIT.** Only a use listed as a conditional use in this ordinance and not specifically prohibited in the shoreland and shoreland/wetland district, shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the Rusk County Zoning Committee.

**11.42 STANDARDS APPLICABLE TO ALL CONDITIONAL USES.** In passing upon a conditional use permit, the Rusk County Zoning Committee shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions;
2. The prevention and control of water pollution including sedimentation;
3. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage;
4. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover;
5. The location of the site with respect to existing or future access roads;
6. The need of the proposed use for a shoreland location;
7. Its compatibility with uses on adjacent land;
8. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems;
9. Location factors under which:
  - (a) Domestic uses shall be generally preferred;
  - (b) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
  - (c) Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

**11.43 CONDITIONS ATTACHED TO CONDITIONAL USE PERMITS.** Upon consideration of the factors

listed above, the Rusk County Zoning Committee shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the Rusk County Zoning Committee shall require the applicant to furnish, in addition to the information required for a zoning permit, the following written information:

1. A plan of the area showing surface contours, soil types, ordinary highwater marks, groundwater conditions, subsurface geology and vegetative cover;
2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping;
3. Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations;
4. Specifications for areas of proposed filling, grading, lagooning or dredging;
5. Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance; and
6. The written plan and information shall be signed by the applicant.

**11.44 NOTICE, PUBLIC HEARING AND DECISION.** Before passing upon a conditional use permit, the Rusk County Zoning Committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the Committee, shall be given as a Class 2 Notice under ch. 985, Wis. Stats. Also a copy of the notice shall be posted in the vicinity of the conditional use, where practical, and notice of the public hearing shall be mailed to the owners of all lands within 500 feet of any part of the land included in such proposed conditional use, and the Town Board of the Township in which the affected land is located, at least ten days before such public hearing. The lake management district or association shall also be notified at least ten days before the hearing. The lake management district or association shall notify the county zoning office of a contact person. The failure of such notice to reach any property owner shall not invalidate any conditional use. Such Notice shall be provided to the appropriate district office of the Department at least ten days prior to the hearing. The Committee shall state in writing the grounds for granting or refusing the conditional use permit.

**11.45 RECORDING.** When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate district office of the Department within 10 days after it is granted or denied.

**11.46 REVOCATION.** Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked by the Rusk County Zoning Committee.

**11.47 APPEAL OF CONDITIONAL USE PERMIT DENIAL.** When a Conditional Use Permit is denied by the Rusk County Zoning Committee, the applicant may appeal that decision to the Rusk County Board of Adjustment as outlined in section 11.6 of this Ordinance 17.57.

**11.48** Any use not listed in 11.2 or 11.4 is prohibited in this district.

**11.5 VARIANCES.** The board of adjustment may grant upon application a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that:

1. Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;

2. The hardship is due to special conditions unique to the property;

3. Such variance is not contrary to the public interest;

**11.51 NO USE VARIANCE.** A variance shall not grant or increase any use of property which is prohibited in the zoning district.

**11.52 Relaxation of standards for persons with disabilities.** The Zoning Department may issue a building permit to relax dimensional standards of this ordinance in order to provide reasonable accommodation of persons with disabilities as required by provisions Federal and state law. Such relaxation shall be consistent with federal guidelines for accommodation of persons with disabilities and shall, where applicable, be terminated when the facility is no longer in use by a disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility.

**11.53 NOTICE, HEARING AND DECISION.** Before passing on an application for a variance, the board of adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 Notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the Department at least ten days prior to the hearing. In addition, a copy of the notice shall be posted in the vicinity of the proposed variance, where practical, and notice of the public hearing shall be mailed to the owners of all lands within 500 feet of any part of the land included in such proposed variance, and the Town Board of the Township in which the affected land is located, at least ten days before such public hearing. The lake management district or association shall also be notified at least ten days before the hearing. The lake management district or association shall notify the county zoning office of a contact person. The failure of such notice to reach any property owner shall not invalidate any variance. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department district office within ten days of the decision.

**11.6 BOARD OF ADJUSTMENT.** The Rusk County Board of Adjustment, as created by the Rusk County Ordinance 97-68 and subject to the policies and procedures of this Ordinance, shall have the following powers with respect to this Ordinance, (Section 17.57 Rusk County Ordinances - Shoreland and Shoreland/Wetland Zoning Code):

1. Grant a variance from only the dimensional standards of this Ordinance (17.57) pursuant to Section 11.5 thereof.
2. Hear and decide appeals where it is alleged that there is an error or an abuse of discretion in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.
3. Hear and decide appeals from a conditional use permit decision of the Rusk County Zoning Committee pursuant to Section 7.2 or 11.4 of this Ordinance (17.57).

**11.61 CONDITIONS AND LIMITATIONS.** In granting a conditional use permit on appeal, the Board shall not impose conditions which are more restrictive than any of the specific standards in this Ordinance (17.57). Where this Ordinance is silent as to the extent of restrictions, the Board may impose any reasonable permit to effect the purpose of this Ordinance.

Ordinance #97-79 Adopted by County  
Board on 12/16/97

**11.7 FEES.** The county board may, by resolution, adopt fees for the following:

1. Land use permits
2. Building permits
3. Certificates of compliance
4. Variances
5. Public hearings
6. Legal notice publications.
7. Conditional use permits
8. Appeals

**12.0 CHANGES AND AMENDMENTS.** The county board may from time to time, alter, supplement or change the boundaries of use districts and regulations contained in this ordinance in accordance with the requirements of s. 59.69(5)(e), Wis. Stats; Ch. NR-115, Wis. Adm. Code; and section 8.5 of this ordinance where applicable.

**12.1** Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.69(5)(e), Wis. Stats.

**12.2** Every petition for a text or map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be mailed to the appropriate district office of the Department within five days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate district office of the Department at least ten days prior to the hearing.

**12.3** A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate district office of the Department within 10 days after the decision is issued.

**13.0 ENFORCEMENT AND PENALTIES.** Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator or the county zoning agency shall refer violations to the district attorney or corporation counsel who shall expeditiously prosecute violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than one thousand (\$1,000.00) dollars nor more than five thousand (\$5,000.00) dollars per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to s. 59.69(11), Wis. Stats.

**13.1 STATUTE OF LIMITATIONS.** Under s. 59.692 (1t), Stats., where a building or structure violates the dimensional or use standards of this ordinance and such building or structure has been in place for more than 10 years before an enforcement action is commenced, the building or structure shall be treated as a legal conforming structure subject to the provisions of Section 10 of this ordinance. A property owner claiming immunity from an enforcement action under this provision shall establish:

- (1) that the noncompliant features or use of the building or structure have been in place for more than 10 years before commencement of an enforcement action; and

(2) that use of such building or structure has been active and continuous for the 10 years prior to commencement of an enforcement action. If use of the structure was discontinued for more than 12 months, such use shall be deemed abandoned and this exemption from enforcement forfeit.

#### 14.0 DEFINITIONS

14.1 For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

14.2 The following terms used in this ordinance mean:

1. Accessory Structure or Use: Means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.
2. Allowed Uses: Land uses and activities that are totally permitted or allowed and that do not require a zoning permit.
3. Boathouse: Means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.
4. Building Envelope: Includes all fully enclosed areas of a principal structure and specifically excludes screened porches, decks, patios and similar construction. (10.332)
5. Campground: A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.
6. County Zoning Agency: Means that committee or commission created or designated by the county board under s. 59.97(2)(a), Wis. Stats., to act in all matters pertaining to county planning and zoning.
7. Deck: Means a structure which is wider than six feet, has a platform and is suspended over water or land by either posts, pilings, guidelines, guidewires or similar supports.
8. Department: Means the Department of Natural Resources (DNR).
9. Development: Means any man-made change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
10. Dock: Means a structure which is less than six feet wide, has a platform and is suspended over the water by either posts, pilings, guidelines, guidewires or similar supports.
11. Drainage system: Means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
12. Filling: The placement or depositing of any material such as dirt, stumps, rocks, gravel, sawdust, sod, debris or like substances. See Section 30.12, Wisconsin Statutes for required state permits.

13. **Floodplain:** Means the land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in ch. NR 116, Wis. Adm. Code.

14. **Footprint:** ("building or structure footprint") means the area within the outermost perimeter of a structure on its main floor, including patios, decks, screened porches and similar construction. (10.333)

15. **Garage, Private:** An accessory building or accessory portion used, or intended to be used, for the storage of private motor vehicles, and having a capacity of not more than 3 automobiles. The term also includes carports.

16. **Grading:** Filling over or removing topsoil or a combination of both. See section 30.19, Wisconsin Statutes, for required state permits.

17. **Home Occupation:** A gainful occupation conducted by a member of the family within his/her place of residence, where the space used is incidental to residential use and no article is sold or offered for sale, except such as produced by such home occupation.

18. **Impervious Surface:** Means the footprint of structures or land areas where precipitation is essentially unable to infiltrate into the soil. Such surfaces include but are not limited to roadways and pathways which are paved or graveled, roofs, patios, decks and similar areas.

19. **Installation:** Means any campground, resort, recreational vehicle park, trailer camp or mobile home park or any combination thereof. Whether designed for year-round or seasonal or permanent or temporary use or any combination. Located on public or private property. And whether fees are charged for the use thereof or not.

20. **Maintenance and Repairs:** Include, but not limited to; replacement or installation of the same size windows and doors, skylights, vents, siding, insulation, shutters, gutters, flooring and shingles, or replacing or repairing internal walls or floors of a foundation. Maintenance and repairs do not include external alterations and additions, internal improvements or replacement of existing structures.

21. **Mine:** A place where an excavation is made to obtain ores, precious stones, minerals, and other elements of value that may or may not require further refinement. For the purpose of this chapter, excavations for the removal of substances such as gravel, sand, and dirt, that require extraction by such means are defined as quarries.

22. **Mobile/Manufactured homes:** Means the following:

(a) Mobile home means a vehicle manufactured or assembled before June 15, 1976; designed to be towed as a single unit or in sections upon a highway and equipped and used or intended to be used primarily for human habitation; with walls of rigid uncollapsible construction; and which has an overall length in excess of 45 feet.

(b) Manufactured homes means a structure constructed after 1976 which is transportable in one or more sections; which in the travelling mode is 8 body feet or more in width or 40 body feet or more in length, or when erected is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required facilities.

23. **Mobile/Manufactured Home Park:** Any lot on which three (3) or more mobile/manufactured homes are parked for the purpose of year round and seasonal habitation and including any associated service, storage, recreation, and other community service facilities designed for the exclusive use of park occupants.

24. **Nuisance:** A use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance or inconvenience.

person, business, institution or organization, or which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is the nature of an announcement, direction or advertisement.

32. Special Exception: Means a use which is permitted by this ordinance, provided that certain conditions specified in the ordinance are met and that a permit is granted by the planning and zoning committee.

33. Steps and Landings: Stairways that are built within the shoreland setback area according to Section 5.3 of this chapter. Stairs and landings are not to exceed 6' in width.

34. Structure: Any human-made object with form, shape and utility, either permanently or temporarily attached to or placed upon the ground, river bed, stream bed, or lake bed.

35. Travel Trailer/RV: A portable vehicle less than ten (10) feet wide by fifty (50) feet long designed and used for temporary living and housekeeping, office, and/or commercial or industrial districts.

36. Unnecessary hardship: Means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

37. Variance: Means an authorization granted by the board of adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.

38. Walkways: A deck that is attached to a building and that does not exceed 6' in width and its construction is primarily to provide ingress and egress from an existing structure. Walkways added to a structure built prior to February 1995 are permitted within the shoreland setback area. Permits are required for all walkways.

39. Wharf: Means the same as dock.

40. Wetlands: Means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

25. **Ordinary Highwater Mark:** Means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

26. **Navigable Waters:** Means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2m), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Wis. Stats, and ch. NR 115, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a natural navigable stream or river;
- (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (c) Such lands are maintained in nonstructural agricultural use.

27. **Outlot:** A parcel of land, other than a lot or block, so designated on the plat, where structures cannot meet required zoning setbacks and is a nonconforming lot according to current lot size requirements.

28. **Permitted Use:** It is that use of the land and/or structures which does not require any variances, public hearings, town board, and/or Zoning Committee approvals, and which may be granted a permit by the Zoning Administrator, once the appropriate fees and applications have been properly completed, signed by the applicant, and submitted to the Zoning Office.

29. **Pier:** Means the same as dock.

30. **Private Sewage System:** A sewage treatment and disposal system serving a single structure with a septic tank and a soil absorption field located on the same parcel. This term also means an alternative sewage system approved by the Department of Commerce including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure and/or a system located on a different parcel than the structure.

31. **Quarry:** An open excavation in the earth for removing stone, sand, gravel, dirt, rocks, or any other substance to be used in the construction of roads, driveways, landscaping, or building.

32. **Regional Flood:** Means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.

33. **Shorelands:** Means lands within the following distances from the ordinary highwater mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

34. **"Shoreland Setback Area":** The area on a parcel that includes the minimum shoreline setback distance and the area waterward to the OHWM.

35. **Shoreland/wetland District:** Means the zoning district, created as a part of this shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this ordinance.

30. **Sideyard:** An open unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard.

31. **Sign:** Any structure or natural object or part thereof or device attached thereto or printed or represented thereon which is intended to attract attention to any object, product, place, activity,



person, business, institution or organization, or which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is the nature of an announcement, direction or advertisement.

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# 17.59 ZONING SCHEDULE-DIMENSIONAL REQUIREMENTS

Building Height Limit	RR-1 35'	RR-2 35'	RR-3 35'	A-1 35'	C-1 35'	I-1 60'	F-1 35'
Required Lot Area							
With Public Sewer	40,000	30,000	10,000	5 acres	10,000	1 acre	20,000
Without Public Sewer	40,000	30,000	10,000		20,000		20,000
Within Shorelands	40,000	30,000	20,000	1 acre	1 acre	1 acre	1 acre
Buildable Lot Width							
With Public Sewer	200	150	100	200	75	200	100
Without Public Sewer	200	150	100	200	200	200	200
Yard Required							
Front	30	30	30	50	10	50	30
Side-Principal Building	10	10	10	20	10	20	10
Within Shoreland	15 +	15 +	15 +	15 +	15 +	15 +	15 +
Side-Accessory Building	5	5	5	10	5	10	5
Rear	25	25	25	50	20	50	40
Floor Area Square Feet							
Principal Residence							
3 Bedrooms	700	700	700	1000	700	700	700
2 Bedrooms	600	600	600	900	600	600	600
1 Bedroom	500	500	500	800	500	500	500
Seasonal Cabins and Mobile Homes							
3 Bedrooms	600	600	600	800			800
2 Bedrooms	400	400	400	700			700
1 Bedroom	300	300	300	600			600

\* Except Towers

\*\* Except Silos and Farm Structures  
+ 2 Sides Must Equal at Least 35'